



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,537	07/01/2003	Claudiu D. Pruteanu	20030168.ORI	4701

23595 7590 01/11/2006
NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

EXAMINER

FOX, CHARLES A

ART UNIT PAPER NUMBER

3652

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,537

Applicant(s)

PRUTEANU ET AL.

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-28, 31, 32, 34-36, 38, 39, 43-49 and 53-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35, 36, 48 and 53-57 is/are allowed.
- 6) ☒ Claim(s) 25-28, 31, 32, 34, 38, 39 and 43-47 is/are rejected.
- 7) ☒ Claim(s) 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-28,31 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duell et al. in view of Gollnick. Regarding claim 25 Duell et al. US 6,123,497 teaches a refuse collection vehicle comprising :

- a hollow refuse storage enclosure (32) with a forward refuse receiving opening and a tailgate(45);

- a generally full width charging hopper (34) located forward of said storage enclosure;

- a packer-ejector panel (50) disposed in said hopper and capable of moving material from said hopper to said storage enclosure as well as ejecting material through said tail gate;

- a front loading handling device for depositing refuse into said hopper;

- a control system for controlling the packer plate in relation to the front loading device;

wherein the control system allows for a variety of packer stroke cycles and the packer plate always returns to its home position prior to the handling device dumping refuse into said hopper. Duell et al. do not teach the packer plate as being followerless.

Gollnick US 4,091,944 teaches a refuse collection vehicle comprising:

Art Unit: 3652

a collection/ storage compartment (13) for compacting refuse;

a front loading device (20) for emptying a container into said collection/ storage compartment;

a followerless packer plate (16) located within said collection/ storage compartment;

wherein said packer plate is used to compact and eject refuse in and from said collection/ storage compartment;

a rear door for closing said collection/ storage compartment and allowing said refuse to be ejected;

controls for coordinating the dumping of a container with opening of top doors (14a) and packing the refuse within the collection/ storage compartment. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Duell et al. with a followerless packer plate as taught by Gollnick in order to simplify the device as well as shortening the space between the cab of the vehicle and the storage compartment, thereby allowing for a greater amount of refuse to be placed into the collection/ storage compartment.

Regarding claim 26 Duell et al. also teaches the packing cycles include a short distance cycle and a longer distance cycle.

Regarding claims 27 and 28 Duell further teaches that the packing cycle is based upon the front loader and that the packing cycle is dependent upon the loading device dumping the contents of a container into the hopper.

Regarding claims 44 and 45 Duell further teaches that said device only has a front loading device.

Regarding claims 31 and 46 Duell et al. also teaches that said device is mounted on a truck chassis.

Regarding claim 47 Duell et al. further teach controlling the device with a microprocessor.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duell et al. and Gollnick as applied to claim 25 above, and further in view of Hund, Jr. et al. Duell et al. and Gollnick teach the limitations of claim 25 as above, they do not teach the vehicle as having a side loading device. Hund, Jr. et al. US 6,761,523 teaches a refuse collection vehicle (28) with a front hopper that can be loaded with a plurality of loading devices including a side loader (21). It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Duell et al. with a side loader as taught by Hund, Jr. et al. in order to allow the device to pick up a wider variety of trash receptacles for dumping into said vehicle, thereby increasing the usefulness of the vehicle by allowing it to pick up both residential or commercial refuse.

Claims 34,38,39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duell et al. in view of Jones and further in view of Brandt. Regarding claims 34 Duell et al. teaches a refuse collection vehicle comprising :

a hollow refuse storage enclosure (32) with a forward refuse receiving opening and a tailgate(45);

a generally full width charging hopper (34) located forward of said storage enclosure;

Art Unit: 3652

a packer-ejector panel (50) disposed in said hopper and capable of moving material from said hopper to said storage enclosure as well as ejecting material through said tail gate;

a loading handling device for depositing refuse into said hopper;

a control system for controlling the packer plate in relation to the front loading device;

wherein the control system allows for a variety of packer stroke cycles and the packer plate always returns to its home position prior to the handling device dumping refuse into said hopper. Duell et al. do not teach the loader as being a side type loader.

Jones et al. US 5,360,310 teaches a refuse collection vehicle with a side loader comprising :

a followerless compaction plate;

a side loader (24) that fits within the confines of the truck body when stowed;

said loader comprising:

an arm (106) with a converging grabber(38,40);

a laterally extending telescopic device (60) for extending and retracting said arm;

an articulated linkage (94a,94b) enabling a container to be held upright until in the proper dumping position. Jones et al. does not teach the side loader as fitting within the confines of the truck body.

Brandt US 5,967,731 teaches a side loading refuse vehicle with a container lifting mechanism (26) that when retracted fits within the lateral confines of the vehicle. It

Art Unit: 3652

would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Duell et al. with a side loader as taught by Jones et al. and Brandt in order to allow the device to pick up a refuse container from a position that is somewhat removed from the vehicle, therefore allowing the device to access and dump containers that would not be accessible by a conventional loader.

Regarding claim 38 Duell et al. also discloses the packing cycles include a short distance cycle and a longer distance cycle.

Regarding claim 39 Duell et al. further discloses that the packing cycle is based upon the loader and that the packing cycle is dependent upon the loading device dumping the contents of a container into the hopper.

Regarding claim 43 Duell et al. also teaches the device as having a front loader and being mounted on a truck chassis.

Response to Amendment

The amendments to the claims and specification filed on October 24, 2005 have been entered into the record.

Allowable Subject Matter

Claims 35,36,48, and 53-57 are allowed.

Claims 58 and 49 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 48,49,55 and 58 have limitations dealing with the linkage members and rotary actuator on the side loading mechanism that are not taught or suggested by the closest prior art of Hund, Jr. et al.


Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 1-7-06
Charles A. Fox
Examiner
Art Unit 3652